

STEPHEN CHA-KIM* (NY - 4979357)
ARNOLD & PORTER KAYE SCHOLER LLP
250 West 55th Street
New York, NY 10019-9710
Telephone: 212.836.8000
Email: stephen.cha-kim@arnoldporter.com

CARSON ANDERSON (CA - 317308)
ARNOLD & PORTER KAYE SCHOLER LLP
3000 El Camino Real
Five Palo Alto Square, Suite 500
Palo Alto, CA 94306-3807
Telephone: 650.319.4500
Email: carson.anderson@arnoldporter.com

NATALIE STEIERT* (DC - 90010655)
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: 202.942.5000
Email: natalie.steiert@arnoldporter.com

OREN NIMNI* (MA - 691821)
AMARIS MONTES* (MD - 2112150205)
RIGHTS BEHIND BARS
416 Florida Avenue N.W. #26152
Washington, D.C. 20001-0506
Telephone: (202) 455-4399
Email: oren@rightsbehindbars.org
amaris@rightsbehindbars.org

SUSAN M. BEATY (CA - 324048)
CALIFORNIA COLLABORATIVE FOR
IMMIGRANT JUSTICE
1999 Harrison Street, Suite 1800
Oakland, California 94612-4700
Telephone: (510) 679-3674
Email: susan@ccijjustice.org

MARK RAFTREY (CA - 352610)
BROOKE D'AMORE BRADLEY (CA -
353030)
ARNOLD & PORTER KAYE SCHOLER
LLP
Three Embarcadero Center, 10th Floor
San Francisco, CA 94111-4024
Telephone: 415-471-3361
Email: mark.raftrey@arnoldporter.com
brooke.damorebradley@arnoldporter.com

**Pro hac vice pending*

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

K.D.,

Plaintiff,

v.

UNITED STATES OF AMERICA; UNITED
STATES OF AMERICA FEDERAL BUREAU OF
PRISONS, a governmental entity; RAY J. GARCIA;
ENRIQUE CHAVEZ; and BILBO,

Defendants.

COMPLAINT

JURY TRIAL DEMANDED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF CONTENTS

Page

INTRODUCTION.....	1
JURISDICTION AND VENUE.....	2
THE PARTIES	3
CONDITIONS PRECEDENT TO FEDERAL TORT CLAIMS ACT CLAIMS	5
JURY DEMAND	5
FACTUAL ALLEGATIONS.....	5
I. Federal Law Requires BOP to Take Action to Prevent and Appropriately Respond to Reports of Staff Sexual Misconduct	5
II. FCI Dublin Leadership and Staff Allowed Sexual Assault to Flourish.	7
III. Defendants GARCIA, CHAVEZ, and BILBO Sexually Abused Plaintiff	10
IV. Officers at FCI Dublin including Defendant BILBO retaliated against Plaintiff for reporting the abuse against her.	13
CLAIMS FOR RELIEF	14
PRAYER FOR RELIEF	30

1 Plaintiff K.D. (“Plaintiff”), by and through her attorneys allege against the Defendants as
 2 above captioned as follows upon information and belief:

3 INTRODUCTION

4 1. For years, people incarcerated at the Federal Correctional Institute, Dublin (“FCI
 5 Dublin”), a federal female low-security prison with an adjacent satellite camp, have been
 6 subjected to rampant, horrific, and ongoing sexual abuse that continues to this day, including but
 7 not limited to: rape and sexual assault; manipulation and sexual coercion, including officers
 8 entering into relationships with incarcerated individuals and officers forcing incarcerated
 9 individuals to undress in order to be released from cells or for exchange of goods; degrading
 10 sexual comments; voyeurism; taking and sharing explicit photos; drugging, groping, and other
 11 forms of abuse during medical exams; and targeted abuse towards immigrants under threat of
 12 deportation. The Federal Bureau of Prisons (“BOP”) and employees at every level have been
 13 aware of these problems for decades and have failed, and continue to fail to take action to protect
 14 those in its care by preventing and addressing rampant staff sexual misconduct.

15 2. The staff sexual abuse at FCI Dublin became the center of a sprawling criminal
 16 investigation, multiple Congressional inquiries, and national media attention. The United States
 17 Senate’s Permanent Subcommittee on Investigations devoted multiple hearings to addressing its
 18 causes and impact, and issued a report in December 2022 describing the abuse as “horrific” and
 19 Defendant BOP’s investigative practices as “seriously flawed,” and concluding that “BOP
 20 management failures enabled continued sexual abuse of female prisoners by BOP’s own
 21 employees.”¹

22 3. Congress enacted the Prison Rape Elimination Act in 2003, 34 U.S.C. § 30301, *et*
 23 *seq.* (“PREA”) to establish national standards for preventing precisely this kind of sexual abuse
 24 from happening to incarcerated people. Under PREA, the U.S. Department of Justice promulgated
 25

26 ¹ S. PERMANENT SUBCOMM. ON INVESTIGATIONS, REP. ON SEXUAL ABUSE OF FEMALE INMATES IN
 27 FEDERAL PRISONS, 1 (Dec. 13, 2022), [https://www.hsgac.senate.gov/wp-](https://www.hsgac.senate.gov/wp-content/uploads/imo/media/doc/2022-12-13%20PSI%20Staff%20Report%20-%20Sexual%20Abuse%20of%20Female%20Inmates%20in%20Federal%20Prisons.pdf)
 28 [content/uploads/imo/media/doc/2022-12-13%20PSI%20Staff%20Report%20-](https://www.hsgac.senate.gov/wp-content/uploads/imo/media/doc/2022-12-13%20PSI%20Staff%20Report%20-%20Sexual%20Abuse%20of%20Female%20Inmates%20in%20Federal%20Prisons.pdf)
[%20Sexual%20Abuse%20of%20Female%20Inmates%20in%20Federal%20Prisons.pdf](https://www.hsgac.senate.gov/wp-content/uploads/imo/media/doc/2022-12-13%20PSI%20Staff%20Report%20-%20Sexual%20Abuse%20of%20Female%20Inmates%20in%20Federal%20Prisons.pdf)
 (hereinafter “Senate Report”).

1 detailed mandatory regulations that provide precise procedures that prisons must follow. The
 2 Federal Bureau of Prisons (“BOP”) adopted PREA policies in response to these regulations.

3 4. Despite these mandatory protections, while incarcerated at FCI Dublin, Plaintiff
 4 was sexually harassed, sexually assaulted, and retaliated against for reporting the abuse against
 5 her. Defendant GARCIA repeatedly commented on and asked to see Plaintiff’s breasts and other
 6 parts of her body, and requested Plaintiff touch herself in front of him. Defendant CHAVEZ also
 7 requested that Plaintiff touch herself in front of him, and repeatedly groped her breasts and
 8 buttocks. Defendant BILBO made repeated comments about Plaintiff’s breasts and ordered her to
 9 wear a bra for when he came by her cell for evening count. In doing so, Defendants violated
 10 Plaintiff’s Constitutional rights and California law on gender violence, sexual assault, and
 11 common law on battery.

12 5. As a result of Defendants’ actions, Plaintiff suffered numerous emotional injuries
 13 and incurred severe personal injuries, which continue to affect her today.

14 6. Plaintiff brings this suit under the United States Constitution Eighth Amendment’s
 15 prohibition on cruel and unusual punishment. Plaintiff also brings this suit under the Federal Tort
 16 Claims Act (“FTCA”) 28 U.S.C. §§ 2671, *et seq.*, under state law on gender violence and sexual
 17 assault, and in connection with the deficient supervision and custodial care provided by various
 18 BOP personnel, including Defendants CHAVEZ and BILBO, within the scope of their
 19 employment within the BOP. Plaintiff also brings this suit under the Trafficking Victims
 20 Protection Act (“TVPA”) 22 U.S.C. §§ 7101, *et seq.*

21 JURISDICTION AND VENUE

22 7. This Court has original subject matter jurisdiction in this action involving claims
 23 arising under the United States Constitution pursuant to 28 U.S.C. §§ 1331 and 1346(b).
 24 Plaintiffs’ claims are predicated, in part, upon the FTCA, 28 U.S.C. §§ 2671, *et seq.*, authorizing
 25 actions seeking relief against the United States.

26 8. The Court has personal jurisdiction of the Defendants because the alleged incidents
 27 occurred within the confines of the State of California.

28 9. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b)(2) and 1402(b) as

1 a substantial part of the events or omissions giving rise to Plaintiff's claims occurred within the
2 boundaries of this District, in the County of Alameda.

3 **THE PARTIES**

4 10. At all times relevant hereto, Plaintiff was incarcerated in the custody of BOP,
5 incarcerated at FCI Dublin located at 5701 8th St., Dublin, CA 94568. Plaintiff was transferred to
6 FCI Tallahassee and remains incarcerated there.

7 11. Defendant United States of America (hereinafter "United States") is the appropriate
8 defendant for Plaintiffs' claims under the Federal Tort Claims Act. The United States is a
9 sovereign entity that has waived its immunity for certain claims, including the claims set forth
10 herein, and is liable for the acts or omissions of its agents, servants, contractors, and employees
11 that occur within the scope of their employment.

12 12. At all times relevant hereto, Defendant United States, acting through the BOP, was
13 responsible for the operation, control, supervision, policy, practice, implementation, and conduct
14 of all BOP matters including at FCI Dublin and was responsible for the hiring, retention, training,
15 supervision, management, discipline, and conduct of all BOP personnel, including but not limited
16 to Defendants GARCIA, CHAVEZ, and BILBO.

17 13. In addition, at all relevant times, the United States was responsible for enforcing
18 the rules of the BOP, and for ensuring that BOP personnel obey the Constitution and laws of the
19 United States.

20 14. Defendant RAY J. GARCIA ("Defendant GARCIA") was the associate warden at
21 FCI Dublin between December 2018 and November 2020, and the warden of FCI Dublin from
22 November 2020 to July 2021. In his capacity as an agent, servant, and employee of Defendant
23 United States, and within the course and scope of his employment as such, Defendant GARCIA
24 was responsible for the day-to-day oversight, supervision, care, custody, control, direction, safety,
25 and well-being of people confined at FCI Dublin, including Plaintiff. Defendant GARCIA is sued
26 in his individual capacity.

27 15. Defendant ENRIQUE CHAVEZ (Defendant "CHAVEZ") was an officer at FCI
28 Dublin during the time period relevant to the events described herein and is sued in his individual

1 capacity. While performing the acts and omissions that Plaintiffs allege in this complaint,
2 Defendant CHAVEZ was acting within the scope of his official employment, or with the BOP's
3 permission and consent and under color of federal law.

4 16. Defendant BILBO (Defendant "BILBO") was an officer at FCI Dublin during the
5 time period relevant to the events described herein and is sued in his individual capacity. While
6 performing the acts and omissions that Plaintiffs allege in this complaint, Defendant BILBO was
7 acting within the scope of his official employment, or with the BOP's permission and consent and
8 under color of federal law.

9 17. At all times relevant hereto, Defendant United States, acting through the BOP,
10 hired Defendants GARCIA, CHAVEZ, and BILBO to serve as "correctional officers" and "law
11 enforcement officers" within the meaning and powers of 28 U.S.C. § 2680(h).

12 18. While acting and failing to act as alleged herein, Defendants had complete custody
13 and total control of Plaintiff, who was dependent upon Defendants for personal security and
14 necessities.

15 19. In performing the acts and/or omissions contained herein, Defendants acted under
16 color of federal law, and each acted maliciously, callously, intentionally, recklessly, with gross
17 negligence, and with deliberate indifference to the rights and personal security of Plaintiff. Each
18 of them knew or should have known that their conduct, attitudes, actions, and omissions were a
19 threat to Plaintiff and to their constitutionally and statutorily protected rights. Despite this
20 knowledge, Defendants failed to take steps to protect Plaintiff and to ensure that their rights were
21 adequately protected while in the custody of Defendants.

22 20. At all times relevant hereto, each Defendant was the agent, representative, or
23 employee of each other Defendant. At all times relevant hereto, each Defendant was acting within
24 the course and scope of said alternative agency, representation, or employment and was within the
25 scope of their authority, whether actual or apparent. At all times relevant hereto, each Defendant
26 was the authorized agent, partner, servant, or contractor of each other Defendant, and the acts and
27 omissions herein alleged were done by them acting through such capacity, within the scope of
28 their authority, with the permission, ratification, approval, and consent of each other Defendant.

1 Accordingly, each of them is jointly and severally liable to Plaintiff.

2 21. Individual Defendants further directly assaulted, harassed, demeaned, degraded,
3 and trafficked particular Plaintiffs as alleged herein.

4 **CONDITIONS PRECEDENT TO FEDERAL TORT CLAIMS ACT CLAIMS**

5 22. Plaintiff brings claims under the Federal Tort Claims Act, asserted against the
6 United States of America.

7 23. Plaintiff exhausted these claims against the United States in accordance with the
8 requirements of the FTCA.

9 24. Plaintiff submitted a “Claim for Damage, Injury, or Death” to the BOP as a PREA
10 victim involving staff at FCI Dublin in the sum of \$10,000,000.00. The BOP received her
11 administrative claim on April 7, 2023. By October 7, 2023, six months after BOP received
12 Plaintiff’s administrative claim, the BOP has neither accepted nor rejected the claims. Pursuant to
13 28 U.S.C. § 2675(a), Plaintiff considers this failure to act as a final denial of the claims.

14 **JURY DEMAND**

15 25. Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs hereby demand a trial
16 by jury on all issues and claims in this action that are so triable.

17 **FACTUAL ALLEGATIONS**

18 **I. Federal Law Requires BOP to Take Action to Prevent and Appropriately Respond to Reports of Staff Sexual Misconduct**

19 26. Prison staff sexual abuse of incarcerated people constitutes a form of torture that
20 violates the Eighth Amendment. *See Bearchild v. Cobban*, 947 F.3d 1130, 1144 (9th Cir. 2020).
21 Such abusive sexual contact also violates federal criminal law. *See, e.g.*, 18 U.S.C. §§ 2243, 2244.

22 27. The Prison Rape Elimination Act (“PREA”) of 2003 required the Attorney General
23 to promulgate rules to prevent sexual abuse in prison facilities. *See* 34 U.S.C. § 30307. In 2012,
24 the U.S. Department of Justice issued regulations designed to “prevent, detect, and respond to
25 prison rape.” *See* 28 C.F.R. § 115, 77 Fed. Reg. No. 119 (June 20, 2012). These regulations were
26 immediately binding on BOP facilities. *Id.*

27 28. Under PREA regulations, BOP is required to “train all employees who may have
28

1 contact with inmates” on the following: its “zero-tolerance policy for sexual abuse and sexual
2 harassment”; prevention, reporting, detection, and response to such behavior; “the right of inmates
3 to . . . be free from retaliation for reporting sexual abuse and sexual harassment”; signs and
4 dynamics of sexual abuse in confinement, and “common reactions of . . . victims”; and “how to
5 avoid inappropriate relationships with inmates.” *Id.* § 115.31(a). The training must be “tailored to
6 the gender of the inmates at the employee’s facility,” and the agency must conduct a refresher
7 training on PREA standards every two years. *Id.* § 115.31(b)–(c). In off years from the training,
8 “the agency shall provide refresher information on current sexual abuse and sexual harassment
9 policies.” *Id.* § 115.31(c).

10 29. PREA regulations mandate staff reporting. BOP must “require all staff to report
11 immediately . . . any knowledge, suspicion, or information regarding an incident of sexual abuse
12 or sexual harassment that occurred in a facility, whether or not it is part of the agency; retaliation
13 against inmates or staff who reported such an incident; and any staff neglect or violation of
14 responsibilities that may have contributed to an incident or retaliation.” 28 C.F.R. § 115.61(a).

15 30. Per PREA regulations, administrative investigations of alleged sexual abuse by a
16 staff member or incarcerated person are required to proceed “promptly, thoroughly, and
17 objectively for all allegations, including third-party and anonymous reports.” *Id.* § 115.71(a).
18 Investigators must be specially trained in sexual abuse investigations and must “gather and
19 preserve direct and circumstantial evidence,” including interviewing “alleged victims, suspected
20 perpetrators, and witnesses” and “shall review prior complaints and reports of sexual abuse
21 involving the suspected perpetrator.” *Id.* § 115.71(c)–(b). The agency is prohibited from
22 determining an alleged victim’s credibility based on their “status as inmate or staff.” *Id.* §
23 115.71(e). Investigations are further required to “include an effort to determine whether staff
24 actions or failures to act contributed to the abuse.” *Id.* § 115.71(f). “The departure of the alleged
25 abuser or victim from the employment or control of the facility or agency shall not provide a basis
26 for terminating an investigation.” *Id.* § 115.71(j).

27 31. Substantiated allegations of potentially criminal conduct must be referred for
28 prosecution and the agency must retain written reports of investigations for five years beyond the

1 end of the staff member’s employment. *Id.* § 115.71(h)–(i). After investigating an incarcerated
 2 person’s allegation that they were abused, BOP must inform that person of whether their
 3 allegation was found to be substantiated, unsubstantiated, or unfounded, even if the investigation
 4 was completed by another agency. *Id.* § 115.73(a)–(b). The presumptive disciplinary sanction for
 5 substantiated allegations of sexual abuse is termination. *Id.* § 115.76(b).

6 32. PREA also includes measures designed to prevent staff retaliation following
 7 incarcerated persons’ reports of abuse. PREA requires that BOP establish a policy to prevent
 8 retaliation, and that staff monitor retaliation, provide “emotional support services for inmates . . .
 9 who fear retaliation,” and monitor for at least 90 days the conduct and treatment of incarcerated
 10 people who report abuse. *Id.* § 115.67. These protective measures include strict limits on the use
 11 of administrative segregation. The regulations provide: “Inmates at high risk for sexual
 12 victimization shall not be placed in involuntary segregated housing unless an assessment of all
 13 available alternatives has been made, and . . . there is no available alternative means of separation
 14 from likely abusers. If a facility cannot conduct such an assessment immediately, the facility
 15 may” hold the individual in segregated housing for “less than 24 hours while conducting the
 16 assessment.” *Id.* § 115.43(a). Any incarcerated person placed in protective custody for this
 17 purpose “shall have access to programs, privileges, education, and work opportunities to the extent
 18 possible.” *Id.* § 115.43(b).

19 33. Defendants repeatedly violated these regulations. From inadequate training, to lack
 20 of confidential reporting mechanisms and access to outside support services, to failures in
 21 administrative investigations, widespread misuse of administrative segregation, and rampant staff
 22 retaliation, its actions and failures to act created an environment that exposed Plaintiff to an
 23 unconscionable risk of sexual violence. As one survivor of staff sexual abuse at Dublin remarked
 24 at the trial of Defendant GARCIA, PREA “really doesn’t exist in Dublin.” Transcript at 401,
 25 *United States v. Garcia*, No. CR-21-00429-YGR (N.D. Cal. Nov. 29, 2022).

26 **II. FCI Dublin Leadership and Staff Allowed Sexual Assault to Flourish.**

27 34. Eight former officers—including former Warden Ray Garcia and a former
 28 chaplain—have been charged with sexual misconduct for incidents spanning from 2019 into 2021,

1 with more charges likely forthcoming. *See United States v. Garcia*, No. 4:21-cr-00429-YGR
 2 (N.D. Cal.) (sentenced to 70 months in prison and 15 years of supervised released following jury
 3 trial); *United States v. Highhouse*, No. 4:22-cr-00016-HGS (N.D. Cal.) (sentenced to 84 months in
 4 federal prison and 5 months of supervised release following guilty plea); *United States v. Chavez*,
 5 No. 4:22-cr-00104-YGR-1 (N.D. Cal.) (sentenced to 20 months in federal prison and 10 years of
 6 supervised release following guilty plea); *United States v. Klinger*, No. 4:22-cr-00031-YGR (N.D.
 7 Cal.) (plead guilty to three counts of sexual abuse of a ward); *United States v. Bellhouse*, No. 4:22-
 8 cr-00066-YGR (N.D. Cal.) (sentenced to 63 months in federal prison and 5 years of supervised
 9 release following jury trial); *United States v. Smith*, No. 4:23-cr-00110-YGR-1 (charges pending);
 10 *United States v. Nunley*, No. 4:23-cr-00213-HSG (N.D. Cal.) (awaiting sentencing following
 11 guilty plea for 4 counts of sexual abuse of a ward, 5 counts of abusive sexual contact, and 1 count
 12 of false statements to a government agency); *United States v. Jones*, No. 4:23-cr-00212-HSG
 13 (N.D. Cal.) (sentenced to 96 months in federal prison and 10 years of supervised release following
 14 guilty plea for 6 counts of sexual abuse of a ward and 1 count of false statements to a government
 15 agency).

16 35. Defendant RAY J. GARCIA (“Defendant GARCIA”) was the associate warden at
 17 FCI Dublin between December 2018 and November 2020, and the warden of FCI Dublin from
 18 November 2020 to July 2021 – a time that overlapped with Plaintiff being abused by Defendant
 19 BILBO. As the warden, Defendant GARCIA was responsible for safekeeping, care, protection,
 20 discipline, programming, and release of inmates incarcerated at FCI Dublin. Defendant GARCIA
 21 was also responsible for hiring, training, and supervising/managing staff, and determining
 22 operating procedures and policies.

23 36. Defendant GARCIA was found guilty of three counts of having sexual contact with
 24 an incarcerated person, four counts of abusive sexual contact, and one count of lying to the FBI.
 25 Defendant GARCIA was sentenced to 5 years and 10 months in prison.

26 37. In early 2022, Defendant CHAVEZ was charged with sexually abusing women in
 27 his custody. Defendant CHAVEZ pled guilty to sexually assaulting an incarcerated woman
 28 multiple times. The federal criminal investigation has made clear that FCI Dublin staff explicitly

1 target immigrant women for abuse, leveraging the threat of deportation. In relevant instances,
2 officers told survivors that they “looked in their files” and knew that they were subject to
3 immigration detainers, or they threatened to notify immigration authorities if survivors reported
4 their abuse. For example, Defendant CHAVEZ sexually abused multiple Mexican immigrant
5 women, and has even traveled to Mexico to visit a woman that he abused after she was released
6 and deported. He plead guilty and was sentenced to 20 months in federal prison and 10 years of
7 supervised release. *United States v. Chavez*, No. 4:22-cr-00104-YGR-1 (N.D. Cal.).

8 38. Defendant GARCIA led training on the Prison Rape and Elimination Act and
9 chaired the audit of FCI Dublin under the PREA. Thus, the man responsible for reporting
10 incidents to the government and teaching inmates how to report rape was in fact a serial rapist of
11 incarcerated people, and he was clearly tolerating and allowing abuse by many more of his
12 underlings, including Defendants.

13 39. Defendant GARCIA had actual knowledge that the other correctional officers under
14 his supervision were sexually assaulting inmates before and after Plaintiff was abused. Despite
15 this knowledge, Defendant GARCIA did not do anything to stop it, even though he had a duty to
16 do so. Due to the fact that Defendant GARCIA had knowledge of prior sexual abuse at FCI and
17 failing to do anything about it, it allowed FCI agents, representatives, and employees to abuse
18 Plaintiff.

19 40. Defendant GARCIA had actual knowledge that inmates complained about the
20 assaults. Defendant GARCIA knew or should have known that the inmates were subjected to
21 retaliation. Because Defendant did not investigate complaints of abuse and harassment and did
22 not do anything to stop it, inmates, including Plaintiff, were abused. Had Defendant GARCIA
23 taken reasonable actions, which he was under a legal duty to perform, Plaintiff would not have
24 been abused. Defendant Garcia’s intentional indifference to inmate abuse was a substantial factor
25 in Plaintiff suffering abuse.

26 41. PREA guidelines and FCI Dublin policies and procedures required all inmate
27 complaints of sexual assault and sexual abuse filed or reported internally be reported to Defendant
28 GARCIA. During GARCIA’s tenure, complaints of sexual assaults of inmates by correctional

1 officers and/or staff were reported.

2 42. With knowledge of prior abuse against inmates by FCI Dublin, representatives, and
3 employees, Defendant GARCIA failed to protect the inmates and turned a blind eye. Such
4 behavior set the tone for rape culture at FCI Dublin, garnering Garcia and his subordinate
5 correctional officers and employees the nickname – “the Rape Club.”

6 43. Further, Defendant GARCIA and others inadequately supervised and trained the
7 prison’s correctional officers and other employees, including Defendants. The UNITED STATES
8 failed to supervise which was a substantial factor in causing Plaintiff’s abuse.

9 44. Defendants repeatedly violated the law. From inadequate training, to lack of
10 confidential reporting mechanisms and access to outside support services, to failures in
11 administrative investigations, widespread misuse of administrative segregation, and rampant staff
12 retaliation, its actions—and failures to act—created an environment that exposed Plaintiff to an
13 unconscionable risk of sexual violence. As one survivor of staff sexual abuse at Dublin remarked
14 at the trial of Defendant GARCIA, PREA “really doesn’t exist in Dublin.” Transcript at 401,
15 *United States v. Garcia*, No. CR-21-00429-YGR (N.D. Cal. Nov. 29, 2022).

16 **III. Defendants GARCIA, CHAVEZ, and BILBO Sexually Abused Plaintiff**

17 45. Plaintiff was incarcerated at FCI Dublin beginning on or around March 2020.

18 46. Plaintiff has been subjected to extensive sexual harassment and sexual assault by
19 Defendants GARCIA, CHAVEZ and BILBO.

20 47. Defendant GARCIA started sexually harassing Plaintiff in mid-July, 2020, when he
21 commented on a scar on her neck, accusing her of having a hickey. GARCIA proceeded to
22 become overly flirtatious with Plaintiff after that point.

23 48. Defendant GARCIA escalated these encounters by making comments about
24 Plaintiff’s breasts and asking to see them. He called her breasts “incredible,” “scrumptious,” and
25 asked what size they were. He then asked Plaintiff to undress in her room when he made rounds.
26 Defendant GARCIA followed up on these requests by ordering Plaintiff to go to breakfast where
27 he could talk to her about her body and again ask to see her during his rounds. Defendant
28 GARCIA would tell Plaintiff what time he would be conducting rounds and ask what Plaintiff’s

1 dressing schedule was, so that he could be there when Plaintiff was undressing.

2 49. During breakfast on April 13, 2021, Defendant GARCIA told Plaintiff that it was a
3 “good day” to be ready for him when he made his rounds, and he requested that she be topless and
4 applying lotion to herself when he arrived between 8:05 and 8:20. This was the same day as a
5 scheduled PREA tour. When Defendant GARCIA instead found Plaintiff at her bra fitting
6 appointment at that time, he broke off from the PREA group he was with and informed her that he
7 had left his entire PREA tour to come see her in her cell and was upset to find her elsewhere.

8 50. Two days later, on April 15, 2021, Defendant GARCIA made the same request that
9 Plaintiff be topless and applying lotion to herself when he made his rounds between 8:05 and 8:20
10 am. Around 8:10 am, Defendant GARCIA reached Plaintiff’s cell and looked in the window.
11 Instead of continuing with his rounds, Defendant GARCIA stopped, knocked on Plaintiff’s door,
12 opened it, and stood in her doorway talking to her for 20-30 seconds while Plaintiff was topless
13 and applying lotion to herself.

14 51. After this incident, Defendant GARCIA reiterated the same request at least six
15 other times through July 2021. Each time, Defendant GARCIA would tell Plaintiff when he
16 would be making his rounds, and tell her what she should be wearing or doing when he came,
17 including whether she should be nude or topless, and whether she should be applying lotion or
18 otherwise touching herself. Plaintiff tried to avoid Defendant GARCIA’s visits by telling him she
19 had a conflicting obligation, to which he responded that she should rearrange her schedule.
20 During all of these incidents, Plaintiff’s roommate was away from the cell, either in a video call or
21 a call-out.

22 52. Defendant GARCIA often provided Plaintiff with special benefits during this
23 abuse. He assisted her to drop her management variable, and helped her with small things in the
24 prison, like ensuring paperwork was processed in a timely manner. He also helped to ensure her
25 cell was not destroyed during facility-wide cell searches (“shakedowns”) when other incarcerated
26 people’s things were often destroyed. He also changed the hygiene supply policy during COVID
27 when Plaintiff requested it from him.

28 53. The last time Defendant GARCIA asked Plaintiff to strip naked for him was July

1 21, 2021, the day before he was walked off his job at FCI Dublin.

2 54. After Plaintiff reported the abuse by Defendant GARCIA, Defendant CHAVEZ
3 began to sexually harass Plaintiff in a similar manner. Defendant CHAVEZ would ask Plaintiff if
4 she would “play for them” which she understood to mean playing with herself while naked during
5 his rounds. Plaintiff tried to refuse but felt like she could not. Defendant CHAVEZ responded,
6 “Well you did it for him so you can do it for me,” with “him” referring to Defendant GARCIA.

7 55. Starting after Defendant GARCIA left until when Defendant CHAVEZ was put on
8 leave, Defendant CHAVEZ would request her to masturbate for him every time he did a walk
9 through in the unit. He would open the door and stand in her cell for three to five minutes while he
10 forced her to masturbate, saying it was a “direct order.” This happened between 7-14 times. He
11 sometimes forced her to wake up and do this at 3 am when he was going to start breakfast prep.

12 56. Defendant CHAVEZ additionally expressed interest in Plaintiff’s feet and on about
13 20 occasions made Plaintiff (and only Plaintiff) take off her shoes to show him her bare feet. This
14 happened most times he was working, and sometimes requested to show him her feet up to twice a
15 day. Defendant CHAVEZ also made Plaintiff take off her socks when she was working with him
16 and made various comments such as, “If you don’t take care of your feet how can you take care of
17 the rest of you,” and called her feet “cute.” Defendant CHAVEZ also sent Plaintiff a note saying
18 “nice feet count 100%.”

19 57. Defendant CHAVEZ also sexually assaulted Plaintiff on multiple occasions by
20 grabbing her breasts and buttocks. In Summer 2021, Defendant CHAVEZ would follow Plaintiff
21 into a walk-in freezer, which had no windows, and grab her breasts and buttocks through her
22 clothes. Plaintiff tried to push him away and leave, but Defendant CHAVEZ persisted. Once, he
23 hugged her from behind while grabbing her breasts. Another time he pushed Plaintiff against a
24 door, and hugged the front of her body and grabbed her buttocks. Other times, Defendant
25 CHAVEZ would try to grab Plaintiff when she would bend over to get milk or other items from
26 the fridge or freezer.

27 58. Defendant CHAVEZ allowed Plaintiff to have special privileges during his abuse
28 including printing things for her on facility computers and assisting her to get information from

1 the computers. He would also often bring her extra food, such as noodles and potatoes, and
2 brought her special hand soap that she preferred.

3 59. Starting in July 2021, Defendant BILBO also began sexually abusing Plaintiff. He
4 started by making repeated comments about her breasts. On July 13, 2021, Defendant BILBO
5 ordered Plaintiff (and only Plaintiff) to wear a bra for the 9pm count. The next day, BILBO sat in
6 the office and stared at Plaintiff.

7 60. If Plaintiff left the lobby area, Defendant BILBO would start making rounds to see
8 Plaintiff at her room, identify something he thought was wrong with her cell, and ask her to
9 confirm that she was wearing a bra, or otherwise comment on her clothes. Defendant BILBO
10 continued this practice daily for a month until he was reassigned. Nonetheless, Defendant BILBO
11 would find a reason to return to Plaintiff's unit to comment on her clothing and tell her "don't
12 break my rule" about wearing a bra. Defendant BILBO continued this practice around 4 to 5 times
13 per week for 4 to 6 months, until late Fall or early Winter of 2021.

14 **IV. Officers at FCI Dublin including Defendant BILBO retaliated against Plaintiff for**
15 **reporting the abuse against her.**

16 61. Plaintiff gathered the courage to report her sexual abuse after Defendant GARCIA
17 was walked off his job in July 2021. Plaintiff reported the incidents described above to SIS
18 Lieutenant Putnam multiple times, including in August 2021. Nothing was done to follow up after
19 she reported to Putnam. Plaintiff requested to be transferred to a different facility to no avail, and
20 has experienced ongoing harassment and retaliation from the officers at FCI Dublin. This includes
21 retaliation from Defendant BILBO, continued to harass her and comment on her breasts.
22 Defendant BILBO also threatened to send her into the SHU or to throw away her things.

23 62. After testifying against Defendants GARCIA and CHAVEZ, Plaintiff has
24 experienced retaliation in the form of cell searches, destruction of her property, unit transfers for
25 no apparent reason, being locked out of her cell unnecessarily, being denied access to the
26 restroom, and being subjected to ongoing sexual comments about her body and breasts. This
27 retaliation occurred most often after Plaintiff met with legal counsel or began speaking about the
28 abuse she experienced.

63. As a result of the sexual harassment, assault, and retaliation by Defendants GARCIA, CHAVEZ, and BILBO, and the other officers at FCI Dublin, Plaintiff has suffered from intense depression and was recently diagnosed with PTSD, depression, and anxiety. She has also experienced physical symptoms of her emotional distress, including night terrors, inability to sleep, difficulty eating, flashbacks, and was recently placed on suicide watch following former warden GARCIA's sentencing hearing.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Plaintiff Against Defendant CHAVEZ (Eighth Amendment, Cruel and Unusual Punishment)

64. Plaintiff incorporates by this reference the allegations contained in the preceding paragraphs as if set forth fully herein.

65. Defendant CHAVEZ subjected Plaintiff to serious bodily harm as defined by the Eighth Amendment when they sexually assaulted and harassed Plaintiff and provided or withheld privileges to coerce sexual favors from Plaintiff.

66. Defendants' actions and failures described here caused the Plaintiff's physical, emotional, and constitutional harms, and she has a claim for damages for such violations under ongoing deprivation of rights secured by the United States Constitution under the Eighth Amendment.

67. This claim for damages is cognizable under *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971) because it claims the same harm and injury as recognized in *Carlson v. Green* 446 U.S. 14 (1980) and *Farmer v. Brennan* 511 U.S. 825 (1994), two recognized *Bivens* contexts.

SECOND CLAIM FOR RELIEF

Plaintiff Against Defendant GARCIA (Eighth Amendment, Cruel and Unusual Punishment)

68. Plaintiff incorporates by this reference the allegations contained in the preceding paragraphs as if set forth fully herein.

69. Defendant GARCIA was deliberately indifferent to the substantial likelihood of

1 serious harm to Plaintiff. Despite knowledge, Defendant GARCIA did nothing to prevent the
2 alleged sexual misconduct and, after Plaintiff reported such misconduct, she was retaliated against.

3 70. Defendant's actions and failures described here caused the Plaintiff's physical,
4 emotional, and constitutional harms, and she has a claim for damages for such violations under
5 ongoing deprivation of rights secured by the United States Constitution under the Eighth
6 Amendment.

7 71. This claim for damages is cognizable under *Bivens v. Six Unknown Named Agents*,
8 403 U.S. 388 (1971) because it claims the same harm and injury as recognized in *Carlson v.*
9 *Green* 446 U.S. 14 (1980) and *Farmer v. Brennan* 511 U.S. 825 (1994), two recognized *Bivens*
10 contexts.

11 CLAIMS FOR RELIEF UNDER THE FTCA

12 THIRD CLAIM FOR RELIEF

13 *Plaintiff Against the United States* (Sexual Assault; Sexual Battery – Cal. Civ. Code § 1708.5)

14 72. Plaintiff incorporates by this reference every allegation in the preceding paragraphs
15 as if fully set forth herein.

16 73. Plaintiff brings this claim against the United States under the FTCA based on acts
17 and/or omissions of Defendant United States and all other Defendants, while working in their
18 official capacities at FCI Dublin. Defendants are employees of BOP and at all relevant times were
19 acting within the scope of their employment as federal employees in their official uniforms during
20 work hours.

21 74. A person commits a sexual battery when he acts with the intent to cause a harmful
22 or offensive contact with another by use of the person's intimate part, and a sexually offensive
23 contact with that person directly or indirectly results. Cal. Civ. Code § 1708.5(a)(2).

24 75. Defendants subjected Plaintiff to sexual acts, with the intent to cause harmful or
25 offensive contact. Such contact with Plaintiff was deeply offensive to their personal dignity and
26 would offend a person of ordinary sensitivity.

27 76. As a direct and proximate result of the foregoing, Plaintiff suffered psychological
28 trauma, distress, anxiety, depression, loss of quality of life and dignity, as well as medical and

1 economic injuries.

2 77. Pursuant to the FTCA, Plaintiff is entitled to recover damages from the United
3 States for the wrongful acts/omissions of its employees.

4 **FOURTH CLAIM FOR RELIEF**
5 ***Plaintiff Against the United States***
6 **(Intentional Infliction of Emotional Distress (“IIED”) – California common law)**

7 78. Plaintiff incorporates by this reference every allegation in the preceding paragraphs
8 as if fully set forth herein.

9 79. Plaintiff brings this claim against the United States under the FTCA based on acts
10 and/or omissions of Defendant United States and all other Defendants while working in their
11 official capacities at FCI Dublin. Defendants are employees of BOP and at all relevant times were
12 acting within the scope of their employment as federal employees in their official uniforms during
13 work hours.

14 80. A person is liable for IIED when the defendant engages in outrageous conduct,
15 when the defendant intended to cause plaintiff to suffer emotional distress or engaged in the
16 conduct with reckless disregard to the probability of causing plaintiff to suffer emotional distress,
17 the plaintiff suffered emotional distress, and the outrageous conduct was a cause of the severe
18 emotional distress.

19 81. Defendant United States, individually or through its agents, servants, contractors,
20 and/or employees, engaged in extreme and outrageous conduct by subjecting Plaintiff to sexual
21 acts while incarcerated in their custody, through the above-described acts and omissions.

22 82. Plaintiff’s injuries and damages were caused by intentional torts perpetrated by
23 Defendants. Under 28 U.S.C. § 2680(h), Defendant United States is liable for intentional torts
24 perpetrated by its agents, including correctional officers, that occurred within the scope of their
25 employment under color of federal law.

26 83. At all relevant times, Defendants were acting under color of law by supervising,
27 disciplining, overseeing, monitoring, controlling, directing, restraining, and imprisoning Plaintiff
28 within the scope of their employment for the United States.

84. Defendants used their authority as law enforcement officers to sexually assault and

1 harass Plaintiff, and as a direct and proximate cause of this conduct Plaintiff has suffered
 2 psychological trauma, distress, anxiety, depression, loss of quality of life and dignity, as well as
 3 medical and economic injuries.

4 85. Pursuant to the FTCA, Plaintiff is entitled to recover damages from the United
 5 States for the wrongful acts/omissions of its employees.

6 **FIFTH CLAIM FOR RELIEF**
 7 ***Plaintiff Against the United States***
 8 **(Sexual Harassment - Cal. Civ. Code § 51.9)**

9 86. Plaintiff incorporates by this reference every allegation in the preceding paragraphs
 10 as if fully set forth herein.

11 87. Plaintiff brings this claim against the United States under the FTCA based on acts
 12 and/or omissions of Defendant United States and all other Defendants while working in their
 13 official capacities at FCI Dublin. Defendants are employees of BOP and at all relevant times were
 14 acting within the scope of their employment as federal employees in their official uniforms during
 15 work hours.

16 88. A person is liable for sexual harassment when a special relationship exists between
 17 a plaintiff and person where there is a considerable imbalance of power; the defendant has made
 18 sexual advances, solicitations, sexual requests, demands for sexual compliance by plaintiff, or
 19 engaged in other verbal, visual, or physical conduct of a sexual nature or hostile nature based on
 20 gender, that were unwelcome and pervasive or severe; and the plaintiff has suffered or will suffer
 21 economic loss or personal injury including emotional distress or violation of a statutory or
 22 constitutional right.

23 89. There exists in FCI Dublin, as all prisons, an extreme imbalance of power between
 24 the officers and the incarcerated individuals. Officers control every aspect of incarcerated persons
 25 lives. In addition to this always-present imbalance of power, the problem is compounded by
 26 retaliation against those who report misconduct.

27 90. For purposes of Cal. Civ. Code § 51.9, a special relationship exists/existed between
 28 Defendants and Plaintiff due to the coercive power of the officers' positions.

91. Defendants in this special relationship with Plaintiff violated Cal. Civ. Code § 51.9

1 by repeatedly sexually abusing her.

2 92. Plaintiff has suffered emotional distress as a result, including psychological trauma,
3 distress, anxiety, depression, loss of quality of life and dignity, as well as medical and economic
4 injuries.

5 93. Pursuant to the FTCA, Plaintiff is entitled to recover damages from the United
6 States for the wrongful acts/omissions of its employees.

7 **SIXTH CLAIM FOR RELIEF**
8 ***Plaintiff Against the United States***
9 **(Tom Bane Civil Rights Act– Cal. Civ. Code § 52.1)**

10 94. Plaintiff incorporates by this reference every allegation in the preceding paragraphs
11 as if fully set forth herein.

12 95. Plaintiff brings this claim against the United States under the FTCA based on acts
13 and/or omissions of Defendant United States and all other Defendants while working in their
14 official capacities at FCI Dublin. Defendants are employees of BOP and at all relevant times were
15 acting within the scope of their employment as federal employees in their official uniforms during
16 work hours.

17 96. A person interferes with another's civil rights if the person uses or attempts to use
18 threats, intimidation, or coercion to interfere with the exercise or enjoyment of rights secured by
19 the Constitution or state or federal laws.

20 97. Speech alone is sufficient where the threatened person reasonably fears violence
21 because the person threatening had the apparent ability to carry out the threat. Because of the
22 coercive, and sometimes violent, nature of a prison and the fact that survivors had seen retaliation
23 before, Plaintiff reasonably feared violence by Defendants.

24 98. Defendant United States through its agents, servants, contractors, and/or employees
25 violate Plaintiff's rights, including but not limited to, their right of protection from bodily harm
26 and sexual violation, imposition of punishment without due process, and cruel and unusual
27 punishment. Defendants violated these rights by threats, intimidation, or coercion.

28 99. As a direct and proximate result of the foregoing, Plaintiff has suffered emotional
distress as a result, including psychological trauma, distress, anxiety, depression, loss of quality of

1 life and dignity, as well as medical and economic injuries.

2 100. Pursuant to the FTCA, Plaintiff is entitled to recover damages from the United
3 States for the wrongful acts/omissions of its employees.

4 **SEVENTH CLAIM FOR RELIEF**
5 ***Plaintiff Against the United States***
6 **(Gender Violence – Cal. Civ. Code § 52.4)**

7 101. Plaintiff incorporates by this reference every allegation in the preceding paragraphs
8 as if fully set forth herein.

9 102. Plaintiff brings this claim against the United States under the FTCA based on acts
10 and/or omissions of Defendant United States and all other Defendants while working in their
11 official capacities at FCI Dublin. Defendants are employees of BOP and at all relevant times were
12 acting within the scope of their employment as federal employees in their official uniforms during
13 work hours.

14 103. Gender violence is a form of sex discrimination and includes a physical intrusion or
15 physical invasion of a sexual nature under coercive conditions, whether or not those acts have
16 resulted in criminal complaints, charges, prosecution, or conviction.

17 104. The conditions at FCI Dublin are that of coercive conditions, as evident by officers
18 regularly withholding things like out of cell time or personal property in exchange for sexual
19 favors. Further, officers exchanged sexual favors for perks that are not normally available to
20 inmates such as treats, alcohol, and the ability to roam the halls.

21 105. Defendants discriminated against Plaintiff based on her sex and/or gender when
22 they repeatedly sexually abused her, physically intruding and invading upon her body under
23 coercive conditions.

24 106. As a direct and proximate result of the foregoing, Plaintiff has suffered emotional
25 distress as a result, including psychological trauma, distress, anxiety, depression, loss of quality of
26 life and dignity, as well as medical and economic injuries.

27 107. Pursuant to the FTCA, Plaintiff is entitled to recover damages from the United
28 States for the wrongful acts/omissions of its employees.

EIGHTH CLAIM FOR RELIEF
Plaintiff Against the United States
(Invasion of Privacy – California common law)

108. Plaintiff incorporates by this reference every allegation in the preceding paragraphs as if fully set forth herein.

109. Plaintiff brings this claim against the United States under the FTCA based on acts and/or omissions of Defendant United States and all other Defendants while working in their official capacities at FCI Dublin. Defendants are employees of BOP and at all relevant times were acting within the scope of their employment as federal employees in their official uniforms during work hours.

110. The elements of invasion of privacy are (1) whether the defendant intentionally intruded, physically or otherwise, upon the solitude or seclusion, private affairs or concerns of the plaintiff; (2) the intrusion was substantial, and of a kind that would be highly offensive to an ordinarily reasonable person; and (3) the intrusion caused plaintiff to sustain injury, damage, loss, or harm.

111. Defendants intentionally and substantially intruded, both physically and otherwise, upon Plaintiff's seclusion when they repeatedly sexually abused her.

112. Such intrusions were substantial and highly offensive to an ordinarily reasonable person due to their sexual and degrading nature.

113. As a direct and proximate result of the foregoing, Plaintiff has suffered emotional distress as a result, including psychological trauma, distress, anxiety, depression, loss of quality of life and dignity, as well as medical and economic injuries.

114. Pursuant to the FTCA, Plaintiff is entitled to recover damages from the United States for the wrongful acts/omissions of its employees.

NINTH CLAIM FOR RELIEF
Plaintiff Against the United States
(Negligence – California common law)

115. Plaintiff incorporates by this reference every allegation in the preceding paragraphs as if fully set forth herein.

1 116. Plaintiff brings this claim against the United States under the FTCA based on acts
2 and/or omissions of Defendant United States and all other Defendants while working in their
3 official capacities at FCI Dublin. Defendants are employees of BOP and at all relevant times were
4 acting within the scope of their employment as federal employees in their official uniforms during
5 work hours.

6 117. At all relevant times, Defendant United States hired various correctional and/or
7 administrative personnel at FCI Dublin, including but not limited to wardens, associate wardens,
8 captains, lieutenants, unit managers, counselors, correctional officers, and investigators.

9 118. At all relevant times, FCI Dublin personnel, including individual Defendants, held
10 themselves out to Plaintiff as correctional and/or administrative personnel with the knowledge,
11 capacity, and ability to provide due care in accordance with standards of reasonable care common
12 and acceptable in the community.

13 119. **Duty.** United States and all other Defendants had a custodial duty, as well as a
14 mandatory statutory obligation under PREA and BOP policy, to protect Plaintiff, who was
15 incarcerated by the United States, from foreseeable harm, including sexual abuse. This duty was
16 non-delegable.

17 120. BOP policy forbids staff in engaging with sexual activity with inmates and staff
18 may not allow other people to engage in sexual activity. BOP policy makes clear that all sexual
19 activity with inmates, even non-physical, is against policy. BOP states that there is no such thing
20 as consensual sex between staff and inmates.

21 121. United States and all other Defendants also had a general duty of care to Plaintiff to
22 act as a reasonable prudent person would under similar circumstances.

23 122. It was the Defendants' duty to maintain, operate, and control FCI Dublin as a safe
24 and secure space for incarcerated people.

25 123. It was the Defendants' duty to protect incarcerated people from foreseeable harm
26 inflicted by BOP personnel.

27 124. **Breach of Duty.** The United States, individually or through its agents, servants,
28 contractors, and/or employees acting within the scope of their employment, breached those duties

1 by failing to supervise and operate FCI Dublin in a manner that would have prevented ongoing
2 sexual abuse and retaliation against Plaintiff.

3 125. A reasonable administrator would have complied with PREA regulations, including
4 safeguarding against retaliation for those who report misconduct.

5 126. A reasonable administrator would also not have exposed Plaintiff to the danger of
6 ongoing sexual abuse.

7 127. Agents, servants, contractors, and/or employees of Defendant United States knew
8 or should have known about the ongoing sexual abuse against Plaintiff, and in breaching their duty
9 directly exposed Plaintiff to an unreasonable risk of bodily injury and sexual assault.

10 128. Despite notice, Defendant United States, through its employees, did not take
11 reasonable, available measures to abate the risk of sexual abuse to Plaintiff in violation of federal
12 regulations and BOP policy.

13 129. The United States, through its employees also failed to train, retain, and supervise
14 officers as well as monitor and investigate them.

15 130. When the employer is aware of its employees' tortious conduct, as it was here, and
16 it ignores or assists in it, retention of employees does not represent legitimate policy
17 considerations warranting discretion.

18 131. At all relevant times, each of the Defendants stood in such a relationship with the
19 other Defendants as to make each of the Defendants liable for the acts and omissions of all other
20 Defendants in regard to their treatment of Plaintiff.

21 132. **Causation.** The United States' negligence in administering FCI Dublin is a direct
22 and proximate cause of Plaintiff's injuries, including psychological trauma, distress, anxiety,
23 depression, loss of quality of life and dignity, as well as medical and economic injuries.

24 133. Officers' employment at FCI Dublin was essential to their commission of tortious
25 misconduct, which would not have happened absent their employment and privileges.

26 134. Defendant officers' conduct was grossly negligent as they showed complete
27 disregard for rights and safety of Plaintiff.

28 135. It was foreseeable to FCI Dublin personnel that Plaintiff was at risk of imminent

1 serious harm including sexual abuse.

2 136. Pursuant to the FTCA, Plaintiff is entitled to recover damages from the United
3 States for the wrongful acts/omissions of its employees.

4 **TENTH CLAIM FOR RELIEF**
5 ***Plaintiff Against the United States***
6 **(Negligent Infliction of Emotional Distress (“NIED”) – California common law)**

7 137. Plaintiff incorporates by this reference every allegation in the preceding paragraphs
8 as if fully set forth herein.

9 138. Plaintiff brings this claim against the United States under the FTCA based on acts
10 and/or omissions of Defendant United States and all other Defendants while working in their
11 official capacities at FCI Dublin. Defendants are employees of BOP and at all relevant times were
12 acting within the scope of their employment as federal employees in their official uniforms during
13 work hours.

14 139. The elements of an NIED claim are as follows: (1) the defendant engaged in
15 negligent conduct/a willful violation of a statutory standard; (2) the plaintiff suffered serious
16 emotional distress; and (3) the defendant’s negligent conduct/willful violation of statutory
17 standard was a cause of the serious emotional distress.

18 140. Defendant officers and the United States engaged in negligent conduct and willful
19 violations of statutory standards by repeatedly sexually abusing Plaintiff, constituting both
20 extreme and outrageous behavior and the negligence.

21 141. The United States’ negligence in administering FCI Dublin is a direct and
22 proximate cause of Plaintiff’s injuries, including psychological trauma, distress, anxiety,
23 depression, loss of quality of life and dignity, as well as medical and economic injuries.

24 142. Pursuant to the FTCA, Plaintiff is entitled to recover damages from the United
25 States for the wrongful acts/omissions of its employees.

26 **CLAIMS FOR RELIEF UNDER THE TVPA**

27 143. Plaintiff incorporates by this reference the allegations contained in the preceding
28 paragraphs as if set forth fully herein.

144. The exploitation of vulnerable people is so common that Congress has passed the

1 Trafficking Victims Protection Act (“TVPA”), 18 U.S.C. § 1581 *et seq.*, a comprehensive
 2 statutory framework imposing both criminal and civil liability, *see* 18 U.S.C. § 1595, of persons
 3 engaging or attempting to engage or benefit from sexual exploitation and labor trafficking or
 4 obstructing anti-trafficking enforcement.

5 145. Specifically, the TVPA punishes anyone who attempts to, conspires to, or actively
 6 “recruits, entices, harbors, transports, provides, obtains, advertises, maintains, patronizes, or
 7 solicits by any means a person; or . . . benefits, financially or by receiving anything of value, from
 8 participation in a [trafficking] venture” while knowing “that means of force, threats of force,
 9 fraud, coercion . . . will be used to cause the person to engage in a commercial sex act.” 18 U.S.C.
 10 § 1591(a); 18 U.S.C. § 1594.

11 146. “Coercion” means “threats of serious harm to or physical restraint against any
 12 person . . . any scheme, plan, or pattern intended to cause a person to believe that failure to
 13 perform an act would result in serious harm to or physical restraint against any person” or “the
 14 abuse or threatened abuse of law or the legal process.” 18 U.S.C. § 1591(e)(2).

15 147. “Serious harm” means “any harm, whether physical or nonphysical, including
 16 psychological, financial, or reputational harm, that is sufficiently serious, under all the
 17 surrounding circumstances, to compel a reasonable person of the same background and in the
 18 same circumstances to perform or to continue performing commercial sexual activity in order to
 19 avoid incurring that harm.” 18 U.S.C. § 1591(e)(5).

20 148. The term “abuse or threatened abuse of law or legal process” means the use or
 21 threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or
 22 for any purpose for which the law was not designed, in order to exert pressure on another person to
 23 cause that person to take some action or refrain from taking some action. 18 U.S.C. § 1591(e)(1).

24 149. Commercial sex act “means any sex act, on account of which anything of value is
 25 given to or received by any person.” 18 U.S.C. § 1591(e)(3).

26 150. Additionally, the TVPA punishes anyone who “knowingly provides or obtains the
 27 labor or services of a person by any one of, or by any combination of, the following means.

28 (1) by means of force, threats of force, physical restraint, or threats of physical

1 restraint to that person or another person;

2 (2) by means of serious harm or threats of serious harm to that person or another
3 person;

4 (3) by means of the abuse or threatened abuse of law or legal process; or

5 (4) by means of any scheme, plan, or pattern intended to cause the person to believe
6 that, if that person did not perform such labor or services, that person or another
7 person would suffer serious harm or physical restraint.”

8 18 U.S.C. § 1589 (a).

9 151. The TVPA punishes anyone who knowingly benefits, financially or by receiving
10 anything of value, from participation in a venture which has engaged in the providing or obtaining
11 of labor or services by any of the means described in subsection (a), knowing or in reckless
12 disregard of the fact that the venture has engaged in the providing or obtaining of labor or services
13 by any of such means, shall be punished as provided in subsection (d). 18 U.S.C. § 1589 (b).

14 152. The term “abuse or threatened abuse of law or legal process” in the forced labor
15 provision means “the use or threatened use of a law or legal process, whether administrative, civil,
16 or criminal, in any manner or for any purpose for which the law was not designed, in order to exert
17 pressure on another person to cause that person to take some action or refrain from taking some
18 action.” 18 U.S.C. § 1589 (c)(1).

19 153. The term “serious harm” means “any harm, whether physical or nonphysical,
20 including psychological, financial, or reputational harm, that is sufficiently serious, under all the
21 surrounding circumstances, to compel a reasonable person of the same background and in the
22 same circumstances to perform or to continue performing labor or services in order to avoid
23 incurring that harm.” 18 U.S.C. § 1589 (c)(12).

24 154. The TVPA also punishes anyone who “obstructs, attempts to obstruct, or in any
25 way interferes with or prevents the enforcement of this section,” 18 U.S.C. § 1591(d).

26 155. The TVPA allows “[an] individual who is a victim of a violation of this chapter [to]
27 bring a civil action against the perpetrator (or whoever knowingly benefits, or attempts or
28 conspires to benefit, financially or by receiving anything of value from participation in a venture

1 which that person knew or should have known has engaged in an act in violation of this chapter)
 2 in an appropriate district court of the United States and may recover damages and reasonable
 3 attorneys fees.” 18 U.S.C. § 1595(a).

4 156. Congress grants a plaintiff up to ten years in which to bring a civil action under 18
 5 U.S.C. § 1595(c).

6 **ELEVENTH FIRST CLAIM FOR RELIEF**
 7 ***Plaintiff Against Defendants GARCIA, CHAVEZ, and BILBO***
 8 **(Sex Trafficking)**

9 157. Defendants GARCIA, CHAVEZ, and BILBO engaged or attempted to engage in
 10 sex trafficking of Plaintiff as prohibited under 18 U.S.C. § 1591, 1594(a).

11 158. Defendants GARCIA, CHAVEZ, and BILBO forced Plaintiff to engage in
 12 commercial sex acts within the meaning 18 U.S.C. § 1591. These sex acts included undressing
 13 herself and inquiring about her breasts in the case of Defendants GARCIA, CHAVEZ, and
 14 BILBO, touching herself in front of Defendants GARCIA and CHAVEZ, and Defendant
 15 CHAVEZ grabbing her breasts, buttocks, and other parts of her body.

16 159. GARCIA, CHAVEZ, and BILBO knowingly recruited, enticed, and solicited
 17 Plaintiff by flirting with her, asking to see her naked body, asking her to apply lotion or play with
 18 herself in front of them, ordering her to rearrange her schedule so she was available to perform
 19 these acts for Defendants, ordering her to be wear a bra on request, delivering notes to Plaintiff
 20 about her body, commenting on her breasts and body, and going out of their way to visit Plaintiff
 21 in her cell.

22 160. Defendants GARCIA, CHAVEZ, and BILBO made Plaintiff commit these sexual
 23 acts through force, fraud, or coercion within the meaning of 18 U.S.C. § 1591. For example by:

- 24 • Assaulting Plaintiff by physical force in a windowless freezer where she
 could not easily escape.
- 25 • Using power and status as correctional officers to control when Plaintiff
 was in her cell, what she was wearing, and what she was doing.
- 26 • Confronting Plaintiff when she did not comply with requests for sexual
 27 favors.
- 28 • Warning Plaintiff not to break an officer’s personal “rule” regarding
 wearing a bra.

- Forcing Plaintiff to rearrange her schedule so that she would be in her cell during an officer's rounds so he could watch her apply lotion to her naked body or watch her touch herself.

161. These methods of force, fraud, and coercion were a plan designed to make Plaintiff believe that she would suffer serious harm should she not obey his sexual advances.

162. These tactics are part of a well-known scheme, plan, or pattern at FCI Dublin by a network of officers that were intended to cause a person to believe that failure to perform an act would result in serious harm or physical restraint.

163. These acts constitute civil wrongs inflicted on Plaintiff and actionable under 18 U.S.C. § 1595.

164. Defendant's conduct has caused Plaintiff serious harm including, without limitation, physical, psychological, emotional, financial, and reputational harm and she has a claim for damages for such violations under 18 U.S.C. §§ 1591, 1595.

165. Defendant's conduct warrants the Court's imposition of compensatory and punitive damages against the Defendants.

166. Pursuant to 18 U.S.C. § 1595, Plaintiff is entitled to recover damages and reasonable attorneys' fees for the Defendants' wrongful conduct.

**TWELFTH CLAIM FOR RELIEF
Plaintiff Against Defendant BILBO
(Obstruction)**

167. Defendant BILBO obstructed or attempted to obstruct enforcement efforts or investigations into the sex trafficking of Plaintiff under 18 U.S.C. § 1591(d). He did so in the following ways:

- Defendant BILBO threatened to throw Plaintiff in to the SHU and destroy her property to stymie and prevent Plaintiff from reporting her sexual abuse and harassment

168. These tactics are part of a well-known scheme, plan, or pattern at FCI Dublin by a network of officers that were intended to cause a person to believe that reporting would result in serious harm or physical restraint.

169. These acts constitute civil wrongs inflicted on Plaintiff and are actionable under 18

1 U.S.C. § 1595.

2 170. Defendants' conduct has caused Plaintiff serious harm including, without limitation,
3 physical, psychological, emotional, financial, and reputational harm, and she has a claim for
4 damages for such violations under 18 U.S.C. § 1591, 18 U.S.C. § 1595.

5 171. Defendants' conduct warrants the Court's imposition of compensatory and punitive
6 damages against the Defendants.

7 172. Pursuant to 18 U.S.C. § 1595, Plaintiff is entitled to recover damages and
8 reasonable attorneys' fees for the Defendants' wrongful conduct.

9
10 **THIRTEENTH CLAIM FOR RELIEF**
11 ***Plaintiffs Against All Individual Capacity Defendants***
(Conspiracy to Violate the Trafficking Victims and Protection Act, 18 U.S.C. § 1584)

12 173. Plaintiff incorporates by this reference the allegations contained in the preceding
13 paragraphs as if set forth fully herein.

14 174. The Trafficking Victims Protection Act establishes that "[w]hoever conspires with
15 another to violate section 1581, 1583, 1589, 1590, or 1592 shall be punished in the same manner
16 as a completed violation of such section; . . . [and w]hoever conspires with another to violate
17 section 1591 shall be fined under this title, imprisoned for any term of years or for life, or both."
18 18 U.S.C. § 1594 (b), (c).

19 175. The TVPA allows "[an] individual who is a victim of a violation of this chapter [to]
20 bring a civil action against the perpetrator (or whoever knowingly benefits, or attempts or
21 conspires to benefit, financially or by receiving anything of value from participation in a venture
22 which that person knew or should have known has engaged in an act in violation of this chapter)
23 in an appropriate district court of the United States and may recover damages and reasonable
24 attorneys fees." 18 U.S.C. § 1595(a).

25 176. Congress grants a plaintiff up to ten years in which to bring a civil action under 18
26 U.S.C. § 1595(c).

27 177. At all relevant times, Defendants knowingly agreed, contrived, confederated, acted
28 in concert, aided and abetted, and/or conspired to continue their longstanding practice of

1 exchanging sex for valuable goods or special benefits as defined in 18 U.S.C. § 1591, or obtaining
 2 forced labor as defined in 18 U.S.C. § 1589 by coercing incarcerated people to perform sexual acts
 3 or to act as lookouts as the Defendants engaged in sexual acts.

4 178. All Defendants conspired to recruit, entice, harbor, transport, provide, obtain,
 5 maintain, patronize, solicit, or benefit from participation in the sex and/or labor trafficking of
 6 Plaintiffs as defined by 18 U.S.C. § 1581 *et seq.*

7 179. Defendants committed overt acts in furtherance of the agreement or understanding
 8 by committing one or more of the following acts:

- 9 • Directly receiving or attempting to receive sexual acts or labor in exchange
 10 for valuable goods or benefits;
- 11 • Engaging in a range of retaliatory tactics to threaten and silence survivors or
 12 witnesses of sexual abuse or trafficking including but not limited to
 13 indiscriminate searches, destruction of property, unnecessary cell transfer,
 14 locking Plaintiff out of her cell, denying Plaintiff access to the restroom,
 15 and ongoing sexual comments and humiliation;
- Knowingly refusing to report abuse or trafficking occurring at FCI Dublin;
- Maintaining practices, policies, and procedures that allowed Defendants to
 benefit from unlawful commercial sex ventures and human trafficking.

16 180. Defendants' participation and assistance in the furtherance of an illegal sex trafficking
 17 plan and/or purpose was intentional and/or willful and, therefore, Defendants intentionally and/or
 18 willfully caused the facilitation of the sex acts in support of their trafficking venture.

19 181. Defendants knew or should have known that their acts supported and facilitated a
 20 trafficking venture.

21 182. Defendants' conspiracy kept Plaintiff and other witnesses of the trafficking from
 22 taking meaningful action, resulting in significant injuries to Plaintiff.

23 183. Defendants' conduct caused Plaintiff serious harm including, without limitation,
 24 physical, psychological, emotional, financial, and reputational harm, and Plaintiffs have claims for
 25 damages for such violations under 18 U.S.C. § 1584; 18 U.S.C. § 1589, 18 U.S.C. § 1591; 18
 26 U.S.C. § 1595.

27
 28 WHEREFORE, Plaintiff prays for judgment against Defendants as set forth below.

PRAYER FOR RELIEF

Plaintiff prays for judgment against Defendants, and each of them, as follows:

184. An award of compensatory, punitive, and nominal damages to Plaintiff in an amount to be determined at trial;

185. An award to Plaintiff, pursuant to 42 U.S.C. §§ 1988 and 12205 of the costs of this suit and reasonable attorneys' fees and litigation expenses; and

186. For such other and further relief as this Court may deem just and proper.

Respectfully submitted,

DATED: March 7, 2024

ARNOLD & PORTER KAYE SCHOLER LLP

By: /s/ Carson D. Anderson

Stephen Cha-Kim
Carson D. Anderson
Natalie Steiert

DATED: March 7, 2024

RIGHTS BEHIND BARS

By: /s/ Oren Nimni

Ms. Amaris Montes (she/her)
Mr. Oren Nimni (he/him)

Attorneys for Plaintiff